

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

TRINITY-ROSELAND COMMUNITY  
DEVELOPMENT CORPORATION

and

Case 13--CA--22278

JOHNNY M. BARKSDALE, an Individual

DECISION AND ORDER

Upon a charge filed on June 9, 1982, by Johnny M. Barksdale, and duly served on Trinity-Roseland Community Development Corporation, herein called Respondent, the General Counsel of the National Labor Relations Board, by the Regional Director for Region 13, issued a complaint on July 22, 1982, against Respondent, alleging that Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Copies of the charge and complaint and notice of hearing before an administrative law judge were duly served on the parties to this proceeding.

With respect to the unfair labor practices, the complaint alleges in substance that Respondent violated Section 8(a)(1) of the Act by discharging and failing to reinstate employees Calvin

Campbell and Suzette Smith because these employees engaged in protected concerted activities for the purpose of collective bargaining or mutual aid or protection, including but not limited to collectively protesting Respondent's policies concerning backpay, wages, and fringe benefits. Respondent failed to file an answer to the complaint.

On August 9, 1982, Respondent was informed by a certified letter from a supervisory attorney in Region 13, Howard I. Malkin, that it had failed to file an answer to the complaint and that, if an answer was not filed by August 13, 1982, a Motion for Summary Judgment would be immediately filed with the Board. There was no response to this letter.

On September 3, 1982, counsel for the General Counsel filed directly with the Board a Motion for Summary Judgment. Subsequently, on September 10, 1982, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. Respondent thereafter filed no response to the Show Cause Order.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Upon the entire record in this proceeding, the Board makes the following:

## Ruling on the Motion for Summary Judgment

Section 102.20 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, provides as follows:

The respondent shall, within 10 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

The complaint served on Respondent stated that, unless an answer was filed within 10 days from the service thereof, "all of the allegations in the complaint shall be deemed to be admitted to be true and may be so found by the Board." As noted above, Respondent has not filed an answer to the complaint, nor has it responded to the Notice To Show Cause. No good cause to the contrary having been shown, in accordance with the rule set forth above, the allegations of the complaint are deemed admitted and found to be true. Accordingly, we grant the Motion for Summary Judgment.

On the basis of the entire record, the Board makes the following:

## Findings of Fact

## I. The Business of Respondent

Respondent is, and has been at all times material herein, a corporation under the Illinois Not-for-Profit Corporation Act. At all times material herein, Respondent has maintained its office

and principal place of business at 11200 South State Street, Chicago, Illinois, where it is now, and has been at all times material herein, engaged in community service programs, including providing aid to mentally disturbed children of 10 years and older. Respondent also maintains a facility at 11030 South Longwood, Chicago, Illinois. During the past fiscal year, a representative period, Respondent, in the course and conduct of its business operations described above, derived gross revenues in excess of \$250,000. During the relevant period of time, Respondent received operating funds in excess of \$10,000 from agencies of the State of Illinois and/or the United States of America.

We find on the basis of the foregoing that Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that it will effectuate the policies of the Act to assert jurisdiction herein.<sup>1</sup>

## II. The Unfair Labor Practices

On or about May 28, 1982, Respondent discharged, and has failed to reinstate, its employees Calvin Campbell and Suzette Smith who were employed at the Longwood facility because they engaged in protected concerted activities for the purpose of collective bargaining or mutual aid or protection, including but

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<sup>1</sup> Member Hunter would assert jurisdiction on the facts presented in this case which have not been disputed.

not limited to collectively protesting Respondent's policies concerning backpay, wages, and fringe benefits.

We therefore find that by discharging and failing to reinstate said employees, Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

### III. The Effect of the Unfair Labor Practices Upon Commerce

The activities of Respondent set forth in section II, above, occurring in connection with its operations described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

### IV. The Remedy

Having found that Respondent has engaged in unfair labor practices in violation of Section 8(a)(1) of the Act, we shall order Respondent to cease and desist therefrom and to take certain affirmative action designed to effectuate the purposes of the Act. Specifically, we shall order that Respondent offer the employees immediate and full reinstatement to their former positions or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority and any other rights and privileges previously enjoyed. We shall further order that Respondent make the employees whole for any loss of earnings or other benefits they suffered by reason of Respondent's unlawful conduct. Their loss of earnings shall be computed as prescribed in F. W. Woolworth Company, 90

NLRB 289 (1950), with interest thereon to be computed in accordance with Florida Steel Corporation, 231 NLRB 651 (1977).<sup>2</sup>

#### Conclusions of Law

1. Respondent is an employer engaged in commerce within the meaning of the Act.

2. Respondent discharged Calvin Campbell and Suzette Smith in violation of Section 8(a)(1) of the Act.

3. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

#### ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Trinity-Roseland Community Development Corporation, Chicago, Illinois, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discharging employees for engaging in protected concerted activities.

(b) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of their rights under Section 7 of the Act.

2. Take the following affirmative action to effectuate the policies of the Act:

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<sup>2</sup> See, generally, Isis Plumbing & Heating Co., 138 NLRB 716 (1962).

(a) Offer Calvin Campbell and Suzette Smith immediate and full reinstatement to their former positions or, if such positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or other rights and privileges previously enjoyed and make them whole for any loss of pay suffered by reason of the discrimination against them, with interest, in the manner set forth in the section of this Decision entitled "'The Remedy.'"

(b) Expunge from its files any reference to the discharges of Calvin Campbell and Suzette Smith and notify them in writing that this has been done and that evidence of their unlawful discharges will not be used as a basis for future personnel actions against them.<sup>3</sup>

(c) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(d) Post at its South Longwood, Chicago, Illinois, facility copies of the attached notice marked "'Appendix.'"<sup>4</sup> Copies of said notice, on forms provided by the Regional Director for

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<sup>3</sup> See Sterling Sugars, Inc., 261 NLRB No. 71 (1982).

<sup>4</sup> In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "'POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD'" shall read "'POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD.'"

Region 13, after being duly signed by Respondent's representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director for Region 13, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

Dated, Washington, D.C.      March 1, 1983

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Howard Jenkins, Jr.,      Member

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Don A. Zimmerman,      Member

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Robert P. Hunter,      Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD



## APPENDIX

## NOTICE TO EMPLOYEES

Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

WE WILL NOT discharge our employees because they engage in protected concerted activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of rights guaranteed them by Section 7 of the Act.

WE WILL offer Calvin Campbell and Suzette Smith immediate and full reinstatement to their former positions at our South Longwood, Chicago, Illinois, facility or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or other rights and privileges previously enjoyed.

WE WILL make Calvin Campbell and Suzette Smith whole with interest for any loss of earnings resulting from their discharges.

WE WILL expunge from our files any reference to the discharges of Calvin Campbell and Suzette Smith, and WE WILL notify them in writing that this has been done and that evidence of their unlawful discharges will not be used as a basis for future personnel actions against them.

TRINITY-ROSELAND COMMUNITY DEVELOPMENT CORPORATION  
(Employer)

Dated ----- By -----  
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604, Telephone 312--353--7597.